

**Regional Activity to Promote Integration  
Through Dialogue and Policy  
Implementation (RAPID)**



**Task Order 2.2 – Free Trade Activity**

**OCCASIONAL PAPER:**

**IMPLEMENTING SADC TRADE PROTOCOL RULES OF  
ORIGIN REGIME: RECOMMENDED PROCEDURES FOR  
INCORPORATION IN MEMBER STATES' NATIONAL  
ADMINISTRATIVE SYSTEMS**

**Submitted by:  
Peter Steele  
Chemonics International, Inc.**

**Submitted to:  
Regional Center for Southern Africa,  
U.S. Agency for International Development**

**Gaborone, Botswana**

**August, 2001**

**Contract No. 690-I-00-00-00149-00**

---

P.O. Box 602090 ▲ Plot 2914, Ext.10 ▲ Pudulogo Crescent ▲ Gaborone, Botswana ▲ Phone (267) 300 884 ▲ Fax (267) 301 027 ▲ Email [rapid@botsnet.bw](mailto:rapid@botsnet.bw)

Chemonics International Inc ▲ Africa Resources Trust ▲ Business Research and Information Group ▲ Complete Software Solutions Ltd ▲ Consilium Legis (Pty) Ltd  
▲ Crown Agents Consultancy Inc ▲ Dewey Ballantine LLP ▲ ECOFIN (Pvt) Ltd ▲ Economic Resources Ltd ▲ Independent Management Consulting Services  
▲ Macroeconomic & Financial Management Institute of Eastern and Southern Africa ▲ Manyaka Greyling Meiring Ltd ▲ Mercosur Consulting Group Ltd  
▲ New Africa Advisors ▲ Resolve Inc ▲ Sigma One Corporation ▲ TechnoServe ▲ Transportation and Economic Research Associates Inc  
▲ ULG Northumbrian Ltd ▲ Vertex Financial Services Ltd ▲ World Conservation Union ▲ World Wildlife Fund

An Activity Funded by the United States Agency for International Development (Contract No. 690-I-00-00-00149-00)

# CONTENTS

	Page
DISCLAIMER .....	4
INTRODUCTION.....	5
BACKGROUND.....	5
SADC RULES OF ORIGIN REGIME.....	5
General features .....	5
Special provision for the MMTZ textile and clothing trade with SACU.....	6
CONSEQUENCES OF COMPLEXITY OF RULES OF ORIGIN REGIME.....	6
NEED FOR COMMON ADMINISTRATIVE PROCEDURES .....	7
RAPID PROPOSALS .....	8
OBJECTIVES OF PROPOSALS.....	8
SUMMARY OF PROPOSALS .....	8
COMMON FEATURES OF NATIONAL SYSTEMS .....	9
Implementation by means of Certification of Origin .....	9
General .....	9
1. Issuing Certificates of Origin.....	10
2. Enforcing compliance with the Rules of Origin regime .....	11
Administrative implications of RAPID proposals .....	15
Distinct functions to be carried out .....	15
Responsible agencies .....	15
Administration of textile quotas .....	16

Validation of Certificates of Origin.....	18
---	----

ANNEX – THE SADC CERTIFICATE OF ORIGIN FORM .....	18
---	----

---

P.O. Box 602090 ▲ Plot 2914, Ext.10 ▲ Pudulogo Crescent ▲ Gaborone, Botswana ▲ Phone (267) 300 884 ▲ Fax (267) 301 027 ▲ Email [rapid@botsnet.bw](mailto:rapid@botsnet.bw)

Chemonics International Inc ▲ Africa Resources Trust ▲ Business Research and Information Group ▲ Complete Software Solutions Ltd ▲ Consilium Legis (Pty) Ltd  
 ▲ Crown Agents Consultancy Inc ▲ Dewey Ballantine LLP ▲ ECOFIN (Pvt) Ltd ▲ Economic Resources Ltd ▲ Independent Management Consulting Services  
 ▲ Macroeconomic & Financial Management Institute of Eastern and Southern Africa ▲ Manyaka Greyling Meiring Ltd ▲ Mercosur Consulting Group Ltd  
 ▲ New Africa Advisors ▲ Resolve Inc ▲ Sigma One Corporation ▲ TechnoServe ▲ Transportation and Economic Research Associates Inc  
 ▲ ULG Northumbrian Ltd ▲ Vertex Financial Services Ltd ▲ World Conservation Union ▲ World Wildlife Fund

An Activity Funded by the United States Agency for International Development (Contract No. 690-I-00-00-00-00149-00)

# DISCLAIMER

This paper has been prepared by the RAPID Project FTA team. Every effort has been made to check the accuracy of all statements made, but the FTA team assumes all responsibility for any errors. Similarly, the opinions and recommendations expressed herein are those of the FTA team alone and should not to be attributed to USAID/RAPID, the SADC Secretariat, SITCD, any SADC Member State or any other body.

---

P.O. Box 602090 ▲ Plot 2914, Ext.10 ▲ Pudulogo Crescent ▲ Gaborone, Botswana ▲ Phone (267) 300 884 ▲ Fax (267) 301 027 ▲ Email [rapid@botsnet.bw](mailto:rapid@botsnet.bw)

Chemonics International Inc ▲ Africa Resources Trust ▲ Business Research and Information Group ▲ Complete Software Solutions Ltd ▲ Consilium Legis (Pty) Ltd  
▲ Crown Agents Consultancy Inc ▲ Dewey Ballantine LLP ▲ ECOFIN (Pvt) Ltd ▲ Economic Resources Ltd ▲ Independent Management Consulting Services  
▲ Macroeconomic & Financial Management Institute of Eastern and Southern Africa ▲ Manyaka Greyling Meiring Ltd ▲ Mercosur Consulting Group Ltd  
▲ New Africa Advisors ▲ Resolve Inc ▲ Sigma One Corporation ▲ TechnoServe ▲ Transportation and Economic Research Associates Inc  
▲ ULG Northumbrian Ltd ▲ Vertex Financial Services Ltd ▲ World Conservation Union ▲ World Wildlife Fund

An Activity Funded by the United States Agency for International Development (Contract No. 690-I-00-00-00-00149-00)

# INTRODUCTION

This paper has been prepared by the USAID-funded RAPID project for the consideration of SADC Heads of Customs. It relates to proposed procedures for implementing the Rules of Origin regime set out in Annex I of the SADC Trade Protocol (Amendment). These proposals were developed in the light of a review of regional Best Practice and international examples. The Heads of Customs may wish to consider these proposals as a basis for recommendations to the Committee of Ministers Responsible for Trade (CMT) on regulations for the enforcement of the regime as prescribed in Rule 12 of Annex I.

## BACKGROUND

### SADC RULES OF ORIGIN REGIME

#### General features

The SADC Trade Protocol that came into force on 1 September, 2000, incorporates a Rules of Origin regime that requires a high degree of local processing of non-originating materials and components to confer originating status in the case of most products. This is intended to ensure that the system of tariff preferences that is the main feature of the protocol actually promotes economic activity in Member States rather than opening the way to increased imports from Third Countries that undergo little or no processing within the region. However, in attempting to secure these ends the member states agreed to establish specific rules for all products relating to the processing that had to be carried out within the region where non-originating materials and components were used. This element of product-specificity will inevitably mean that the enforcement of the regime will pose administrative problems of considerable complexity.

---

P.O. Box 602090 ▲ Plot 2914, Ext.10 ▲ Pudulogo Crescent ▲ Gaborone, Botswana ▲ Phone (267) 300 884 ▲ Fax (267) 301 027 ▲ Email [rapid@botsnet.bw](mailto:rapid@botsnet.bw)

Chemomics International Inc ▲ Africa Resources Trust ▲ Business Research and Information Group ▲ Complete Software Solutions Ltd ▲ Consilium Legis (Pty) Ltd  
▲ Crown Agents Consultancy Inc ▲ Dewey Ballantine LLP ▲ ECOFIN (Pvt) Ltd ▲ Economic Resources Ltd ▲ Independent Management Consulting Services  
▲ Macroeconomic & Financial Management Institute of Eastern and Southern Africa ▲ Manyaka Greyling Meiring Ltd ▲ Mercosur Consulting Group Ltd  
▲ New Africa Advisors ▲ Resolve Inc ▲ Sigma One Corporation ▲ TechnoServe ▲ Transportation and Economic Research Associates Inc  
▲ ULG Northumbrian Ltd ▲ Vertex Financial Services Ltd ▲ World Conservation Union ▲ World Wildlife Fund

An Activity Funded by the United States Agency for International Development (Contract No. 690-I-00-00-00-00149-00)

## Special provision for the MMTZ textile and clothing trade with SACU

The Rules of Origin regime incorporates an exception to the rules to be applied to the generality of trade within the region in the case of textile and clothing products exported from the LDC non-SACU states (i.e. Malawi, Mozambique, Tanzania and Zambia - (MMTZ) to SACU markets. This means that, for a period of five years, those four countries' exports of such items to those destinations that are based on the use of imported materials need only undergo processing sufficient to achieve a single tariff heading transformation to achieve SADC originating status. This compares to the "double transformation" required for the generality of intra-regional trade in these products. It should be noted that this arrangement is not a derogation in that it does not presume what will be the form of the Rules of Origin regime for textiles and clothings that will be adopted when that issue is reviewed in three years' time.

Under the present arrangement, the exception made in their favour should reduce considerably the problems of MMTZ governments in enforcing effectively the relevant rules of origin. However, as a *quid pro quo* for the SACU concession, MMTZ had to agree to the imposition of quotas on their exports to SACU markets of textile products produced under the alternative Rules of Origin. It would be desirable that the administrative procedures adopted by these governments in this connection also take account of the need for the effective monitoring of the usage of these quotas by their exporters.

## CONSEQUENCES OF COMPLEXITY OF RULES OF ORIGIN REGIME

The complexity of the SADC regime could mean that some member-states will be doubtful as to the ability of their trading partners effectively to enforce its provisions in respect of exports to their national markets. It could also mean that, in seeking to ensure that the regime is properly enforced, member-states will introduce administrative procedures that are so burdensome that these will become a disincentive for potential exporters in SADC Member States, discouraging companies that might otherwise consider seeking to benefit under the preferential access rules of the SADC Trade Protocol.

It would also be idle to ignore the opportunities for corruption and petty extortion that over-burdensome procedures could afford the officials entrusted with their administration. Member States should take the greatest care in formulating recommendations for the administration of the Rules of Origin regime to avoid this.

---

P.O. Box 602090 ▲ Plot 2914, Ext.10 ▲ Pudulogo Crescent ▲ Gaborone, Botswana ▲ Phone (267) 300 884 ▲ Fax (267) 301 027 ▲ Email [rapid@botsnet.bw](mailto:rapid@botsnet.bw)

Chemomics International Inc ▲ Africa Resources Trust ▲ Business Research and Information Group ▲ Complete Software Solutions Ltd ▲ Consilium Legis (Pty) Ltd  
▲ Crown Agents Consultancy Inc ▲ Dewey Ballantine LLP ▲ ECOFIN (Pvt) Ltd ▲ Economic Resources Ltd ▲ Independent Management Consulting Services  
▲ Macroeconomic & Financial Management Institute of Eastern and Southern Africa ▲ Manyaka Greyling Meiring Ltd ▲ Mercosur Consulting Group Ltd  
▲ New Africa Advisors ▲ Resolve Inc ▲ Sigma One Corporation ▲ TechnoServe ▲ Transportation and Economic Research Associates Inc  
▲ ULG Northumbrian Ltd ▲ Vertex Financial Services Ltd ▲ World Conservation Union ▲ World Wildlife Fund

An Activity Funded by the United States Agency for International Development (Contract No. 690-I-00-00-00149-00)

# NEED FOR COMMON ADMINISTRATIVE PROCEDURES

The certification systems developed by Member State governments as required by the SADC Trade Protocol will have to reflect the idiosyncratic circumstances of their own countries: it would probably be impossible to devise a single system that could be introduced without modification throughout the region. Nevertheless, it is important that, in each case, the systems instituted should be formulated with a view to avoiding the dangers inherent in the nature of the Rules of Origin regime. RAPID considers that this is most likely to be achieved were the national systems to be developed on the basis of certain common features that should be prescribed by the CMT under the provisions of Rule 12 of Annex I of the SADC Trade Protocol. A review by RAPID of regional practices and Best Practice elsewhere suggests such features which are now discussed below.

---

P.O. Box 602090 ▲ Plot 2914, Ext.10 ▲ Pudulogo Crescent ▲ Gaborone, Botswana ▲ Phone (267) 300 884 ▲ Fax (267) 301 027 ▲ Email [rapid@botsnet.bw](mailto:rapid@botsnet.bw)

Chemonics International Inc ▲ Africa Resources Trust ▲ Business Research and Information Group ▲ Complete Software Solutions Ltd ▲ Consilium Legis (Pty) Ltd  
▲ Crown Agents Consultancy Inc ▲ Dewey Ballantine LLP ▲ ECOFIN (Pvt) Ltd ▲ Economic Resources Ltd ▲ Independent Management Consulting Services  
▲ Macroeconomic & Financial Management Institute of Eastern and Southern Africa ▲ Manyaka Greyling Meiring Ltd ▲ Mercosur Consulting Group Ltd  
▲ New Africa Advisors ▲ Resolve Inc ▲ Sigma One Corporation ▲ TechnoServe ▲ Transportation and Economic Research Associates Inc  
▲ ULG Northumbrian Ltd ▲ Vertex Financial Services Ltd ▲ World Conservation Union ▲ World Wildlife Fund

An Activity Funded by the United States Agency for International Development (Contract No. 690-I-00-00-00-00149-00)

# RAPID PROPOSALS

## OBJECTIVES OF PROPOSALS

The objectives of the RAPID proposals are to ensure that national systems for the implementation of the SADC Trade Protocol Rules of Origin regime are developed and operated in such a way as to:

Give confidence to fellow Member States that the regime is being effectively administered as intended and, consequently, that, in most instances, claims for tariff preferences are being made only in respect of goods that qualify for them; AND to achieve this

1. Without imposing such burdens of proof on exporters and producers for export that the development of intra-regional trade is effectively discouraged. This should be particularly the case at time of shipment of goods.

## SUMMARY OF PROPOSALS

RAPID proposes that the implementation of the Rules of Origin regime of the SADC Trade Protocol should be by means of the issue of Certificates of Origin by authorised national agencies. This is as envisaged in the protocol.

The certification system should have the following features in common:

1. **Pre-shipment qualification of Export Producers:** Consignments of goods claiming preferential access in SADC markets should not be granted Certificates of Origin unless:
  - 1.1. The producers of the goods are registered as capable of producing the specific categories of goods for which they (or exporters) will later seek Certificates of Origin;
  - 1.2. The producers maintain adequate records of their manufacturing activities for at least five years;
2. **Issuing of Certificates of Origin:** Certificates of Origin should be issued on the basis of a Producer Declaration of the goods' originating status and the first commercial invoice. Unless queries have been raised that call into question the accuracy of the Producer Declaration, no further investigation should be made at this stage.

---

P.O. Box 602090 ▲ Plot 2914, Ext.10 ▲ Pudulogo Crescent ▲ Gaborone, Botswana ▲ Phone (267) 300 884 ▲ Fax (267) 301 027 ▲ Email [rapid@botsnet.bw](mailto:rapid@botsnet.bw)

Chemomics International Inc ▲ Africa Resources Trust ▲ Business Research and Information Group ▲ Complete Software Solutions Ltd ▲ Consilium Legis (Pty) Ltd  
▲ Crown Agents Consultancy Inc ▲ Dewey Ballantine LLP ▲ ECOFIN (Pvt) Ltd ▲ Economic Resources Ltd ▲ Independent Management Consulting Services  
▲ Macroeconomic & Financial Management Institute of Eastern and Southern Africa ▲ Manyaka Greyling Meiring Ltd ▲ Mercosur Consulting Group Ltd  
▲ New Africa Advisors ▲ Resolve Inc ▲ Sigma One Corporation ▲ TechnoServe ▲ Transportation and Economic Research Associates Inc  
▲ ULG Northumbrian Ltd ▲ Vertex Financial Services Ltd ▲ World Conservation Union ▲ World Wildlife Fund

An Activity Funded by the United States Agency for International Development (Contract No. 690-I-00-00-00-00149-00)



3. **Post-shipment verification of Certificates of Origin:** Consignments of goods for which Certificates of Origin have been issued may be subject to investigation post-shipment to establish whether or not they were produced in accordance with the criteria of the relevant Rule of Origin. Such verification should be carried out:
  - 3.1. On an *ad hoc* basis in the case of particular shipments where the accuracy of the Producer Declaration has been called into question; and
  - 3.2. Systematically across the whole range of Certificates of Origin issued on the basis of samples selected using appropriate risk-analysis techniques.

Certification and verification should be regarded as being distinct functions and should be carried out by discrete agencies or by discrete units within a single agency. RAPID prefers the latter option and would recommend that Customs should assume sole responsibility for the execution of both functions in all Member States.

These principles should be reflected in regulations agreed by the CMT that would become a part of the SADC Trade Protocol as required in Rule 12 of Annex I, possibly involving an amendment of the present Appendix V of the annex. The regulatory framework in each Member State should be adjusted as necessary to accommodate the introduction of systems along these lines.

## COMMON FEATURES OF NATIONAL SYSTEMS

### Implementation by means of Certification of Origin

#### General

The SADC Trade Protocol envisages the Rules of Origin regime being enforced by means of systems for certifying that goods seeking the SADC trade preferences were produced in accordance with the relevant Rules of Origin. Under this arrangement, it is the responsibility of Member States to institute such systems.

RAPID suggests that the certification process should have three main elements.

---

P.O. Box 602090 ▲ Plot 2914, Ext.10 ▲ Pudulogo Crescent ▲ Gaborone, Botswana ▲ Phone (267) 300 884 ▲ Fax (267) 301 027 ▲ Email [rapid@botsnet.bw](mailto:rapid@botsnet.bw)

Chemonics International Inc ▲ Africa Resources Trust ▲ Business Research and Information Group ▲ Complete Software Solutions Ltd ▲ Consilium Legis (Pty) Ltd  
▲ Crown Agents Consultancy Inc ▲ Dewey Ballantine LLP ▲ ECOFIN (Pvt) Ltd ▲ Economic Resources Ltd ▲ Independent Management Consulting Services  
▲ Macroeconomic & Financial Management Institute of Eastern and Southern Africa ▲ Manyaka Greyling Meiring Ltd ▲ Mercosur Consulting Group Ltd  
▲ New Africa Advisors ▲ Resolve Inc ▲ Sigma One Corporation ▲ TechnoServe ▲ Transportation and Economic Research Associates Inc  
▲ ULG Northumbrian Ltd ▲ Vertex Financial Services Ltd ▲ World Conservation Union ▲ World Wildlife Fund

An Activity Funded by the United States Agency for International Development (Contract No. 690-I-00-00-00-00149-00)

# 1. Issuing Certificates of Origin

RAPID considers that the process of issuing of Certificates of Origin at time of shipment should not be so burdensome on exporters that it becomes, in effect, a non-tariff barrier. In particular, the *bona fide* exporter should be able to rely on getting a certificate within a predictable period that he can then fit into his shipping schedule<sup>1</sup>. To this end the NCA would normally issue Certificates of Origin without further enquiry when a registered exporter<sup>2</sup> submits the following documents. (In this paper this national certification agency will henceforth be referred to as the NCA):

1. A **Producer Declaration**<sup>3</sup>; AND
2. The **Purchase Order** and the **Original Commercial Invoice** relating to the shipment for which certification is sought;

As far as possible, officers of the NCA should specialize in dealing with particular product categories and familiarize themselves with the operations of the companies that produce/export those products<sup>4</sup>. However, officers' personal knowledge of the companies they deal with should not in any way substitute for the development of detailed formal profiles of all export producers seeking Certificates of Origin by means of a registration process – see page 14 below.

---

<sup>1</sup> RAPID suggests that two consecutive working days might be an appropriate period for issuing Certificates of Origin where no doubts are entertained of the originating status of the goods concerned. However, predictability in this respect is probably more important than rapidity *per se*, as the main concern of the *bona fide* exporter is to be able to plan his marketing schedule with confidence that it will not be upset for trivial bureaucratic reasons.

<sup>2</sup> See page 14 for an explanation of the term 'Registered Exporter'

<sup>3</sup> RAPID considers that the Producer Declaration in appendix III of Annex I of the SADC Trade Protocol might usefully be amended. Its reasoning and consequent substantive proposals will be discussed in an Occasional Paper currently under preparation for the Heads of Customs.

<sup>4</sup> This would, of course, require that precautions be taken against the possibility of collusion between officers and individual companies to transship Third Country goods. RAPID suggests that, as is done in Mauritius, certifying officers should always initial documents passed by them – thus creating a “paper trail” – while documents should be double-checked by supervisors on an *ad hoc* basis. In addition, officers' responsibilities in respect of particular product categories should be for limited periods only.

- ◆ NCA offices should always be adequately manned. In particular, an authorised signatory (notified to the SADC Secretariat as agreed under the protocol) should be on duty throughout each working day. The NCAs – see page 15 below – should not countenance the possibility that exporters might fail to make scheduled shipments because their officers are negligent in this respect.

## 2. Enforcing compliance with the Rules of Origin regime

Were the relaxed procedures for ISSUING certificates suggested to be adopted it would mean that the only evidence of the goods' originating status available to Customs authorities in importing countries would be the unsupported word of the producer. It would be idle to assume that this situation would not, on occasion, tempt producers and exporters to make careless or dishonest statements in this regard and that this would tend to make importing Customs suspicious of all imports from the Member State in question and prone to seek verification far more than is necessary. The system proposed would only command the confidence of SADC trading partners if there were also rigorous measures in place in exporting Member States to ENFORCE COMPLIANCE with the relevant Rules of Origin.

Accordingly, RAPID proposes that this function should consist of both **pre-shipment** and **post-shipment** procedures designed to encourage producers to comply with the Rules of Origin regime and discourage transshipment by overseas suppliers and by those acting on their behalf.

1. **Preshipment procedures:** These should include:

---

P.O. Box 602090 ▲ Plot 2914, Ext.10 ▲ Pudulogo Crescent ▲ Gaborone, Botswana ▲ Phone (267) 300 884 ▲ Fax (267) 301 027 ▲ Email [rapid@botsnet.bw](mailto:rapid@botsnet.bw)

Chemomics International Inc ▲ Africa Resources Trust ▲ Business Research and Information Group ▲ Complete Software Solutions Ltd ▲ Consilium Legis (Pty) Ltd  
 ▲ Crown Agents Consultancy Inc ▲ Dewey Ballantine LLP ▲ ECOFIN (Pvt) Ltd ▲ Economic Resources Ltd ▲ Independent Management Consulting Services  
 ▲ Macroeconomic & Financial Management Institute of Eastern and Southern Africa ▲ Manyaka Greyling Meiring Ltd ▲ Mercosur Consulting Group Ltd  
 ▲ New Africa Advisors ▲ Resolve Inc ▲ Sigma One Corporation ▲ TechnoServe ▲ Transportation and Economic Research Associates Inc  
 ▲ ULG Northumbrian Ltd ▲ Vertex Financial Services Ltd ▲ World Conservation Union ▲ World Wildlife Fund

An Activity Funded by the United States Agency for International Development (Contract No. 690-I-00-00-00-00149-00)

- 1.1. **Registration of export producers:** All companies intending to produce goods for intra-SADC trade should be registered as being capable of producing those specific categories of goods in accordance with the relevant rules of origin. One object of registration should be to initiate databases on all export producers that would be regularly maintained by means of the desk-monitoring of their activities discussed below.

Under this system, Certificates of Origin would only be issued to Registered Producers or to exporters who submit Producer Declarations (see page 14 above) by Registered Producers and, then, only in respect of the products for which those producers are specifically registered

Registration should be renewed annually and might involve physical inspection of the producer's manufacturing facilities should this be deemed necessary. However, it should always involve the producer submitting certain information regarding his capacity – on, for instance:

- ◆ Manufacturing premises;
- ◆ Capital equipment; Production capacity in respect of the goods for which Certificates of Origin will be sought;
- ◆ For producers seeking renewal of their registration, details of production of goods certified as originating in the previous year;
- ◆ Workforce employed.

The agency carrying out the registration process (see below) should always make available the information collected on export producers to the Customs authorities of the SADC trading partners on a systematic basis.

---

P.O. Box 602090 ▲ Plot 2914, Ext.10 ▲ Pudulogo Crescent ▲ Gaborone, Botswana ▲ Phone (267) 300 884 ▲ Fax (267) 301 027 ▲ Email [rapid@botsnet.bw](mailto:rapid@botsnet.bw)

Chemonics International Inc ▲ Africa Resources Trust ▲ Business Research and Information Group ▲ Complete Software Solutions Ltd ▲ Consilium Legis (Pty) Ltd  
▲ Crown Agents Consultancy Inc ▲ Dewey Ballantine LLP ▲ ECOFIN (Pvt) Ltd ▲ Economic Resources Ltd ▲ Independent Management Consulting Services  
▲ Macroeconomic & Financial Management Institute of Eastern and Southern Africa ▲ Manyaka Greyling Meiring Ltd ▲ Mercosur Consulting Group Ltd  
▲ New Africa Advisors ▲ Resolve Inc ▲ Sigma One Corporation ▲ TechnoServe ▲ Transportation and Economic Research Associates Inc  
▲ ULG Northumbrian Ltd ▲ Vertex Financial Services Ltd ▲ World Conservation Union ▲ World Wildlife Fund

An Activity Funded by the United States Agency for International Development (Contract No. 690-I-00-00-00-00149-00)

- 1.2. **Obligation on export producers to keep records:** Registered Exporters should be under a legal obligation to keep a complete record of their activities for a period of five years. (It is probably the case that this is already a requirement in most Member States, but it may be necessary to extend the range of records that must be kept for certification purposes and to give the agency powers to access them on demand.) These records might include documentation relating, *inter alia*, to:

- ◆ Orders received and fulfilled for delivery to SADC destinations;
- ◆ Manufacturing operations;
- ◆ Purchases and use of capital goods and consumables;
- ◆ Import, export and transportation;
- ◆ Monthly employment levels;
- ◆ Use of water, electricity and sewage services.

2. **Post-shipment procedures:** Post-shipment procedures should include:

- 2.1. **Desk monitoring of Export Producer activities:** The activities of Registered Export Producers in respect of their output of goods for which they are registered should be systematically monitored on the basis of documentary evidence. In particular, their receipt of Certificates of Origin in respect of the goods for which they are registered should be checked against their purchases of the materials or components they are required to process to manufacture those goods to be in conformity with the relevant Rules of Origin and their known production capacity in terms of operatives employed and capital equipment. Any suspicions aroused by this monitoring process as to the accuracy of statements made in the Producer Declaration might eventuate in more direct investigations of the company's operations as discussed in the following sub-section.
- 2.2. **Investigations and audits:** Compliance enforcement procedures should include *ad hoc* investigations of particular shipments covered by Certificates of SADC Origin on which queries have been raised and a systematic review of all shipments on a sample basis.

---

P.O. Box 602090 ▲ Plot 2914, Ext.10 ▲ Pudulogo Crescent ▲ Gaborone, Botswana ▲ Phone (267) 300 884 ▲ Fax (267) 301 027 ▲ Email [rapid@botsnet.bw](mailto:rapid@botsnet.bw)

Chemomics International Inc ▲ Africa Resources Trust ▲ Business Research and Information Group ▲ Complete Software Solutions Ltd ▲ Consilium Legis (Pty) Ltd  
▲ Crown Agents Consultancy Inc ▲ Dewey Ballantine LLP ▲ ECOFIN (Pvt) Ltd ▲ Economic Resources Ltd ▲ Independent Management Consulting Services  
▲ Macroeconomic & Financial Management Institute of Eastern and Southern Africa ▲ Manyaka Greyling Meiring Ltd ▲ Mercosur Consulting Group Ltd  
▲ New Africa Advisors ▲ Resolve Inc ▲ Sigma One Corporation ▲ TechnoServe ▲ Transportation and Economic Research Associates Inc  
▲ ULG Northumbrian Ltd ▲ Vertex Financial Services Ltd ▲ World Conservation Union ▲ World Wildlife Fund

An Activity Funded by the United States Agency for International Development (Contract No. 690-I-00-00-00-00149-00)

2.2.1. **Ad hoc investigations:** Export producers should be subject to random inspections of their premises and such other investigations as seems appropriate – including a full audit of the manufacturing process undertaken in respect of a particular shipment - should there seem any reason (for instance, as a result of the desk-monitoring process described above) to suppose that:

2.2.1.1. The registration details may not be accurate; or

2.2.1.2. An application for a certificate may not have been in order; or

2.2.1.3. Where a request for verification has been received from the Customs department of the destination country using the form provided for that purpose in the SADC Trade Protocol. (This would not, of course, detract from the right of importing Customs to carry out origin verifications in exporting countries as provided in Annex II, Appendix I, Article 6 of the SADC Trade Protocol);

2.2.2. **Systematic post-shipment audits:** In addition to the *ad hoc* investigations discussed above, systematic post shipment audits<sup>6</sup> should be undertaken of all shipments covered by Certificates of SADC Origin with a view to determining that they were indeed produced according to the relevant criteria of origin. It is envisaged that these audits would be done on a sampling basis, the samples to be determined in the light of risk analysis. Factors to be considered here might be:

- ◆ The track record of the producer as a supplier of goods for export to SADC destinations. For instance, the Heads of Customs may recommend that, whereas newly registered producers would be automatically audited, this would not be the case with those that have established their *bona fides*;
- ◆ The sensitivity of the goods concerned in the destination country. For instance, all shipments of clothing products to the RSA from MMTZ sources might be automatically audited.

---

<sup>6</sup> It is envisaged that these audits would be similar to those already carried out in respect of duty drawback schemes.

# Administrative implications of RAPID proposals

## Distinct functions to be carried out

Under the RAPID proposals there would be two main functions to be carried out in respect of certification of origin:

1. The issuing of Certificates of Origin with a minimum of enquiry **at time of shipment** so as to impose as few impediments as possible on the export marketing process and, thus, promote trade growth under the protocol;
2. The verification of Certificates of Origin issued by means of both pre- and post-shipment procedures to give trading partners confidence that the Rules of Origin regime is being administered according to generally agreed standards of efficiency.

## Responsible agencies

The above analysis suggests that certification should be the responsibility of two discrete agencies – or two discrete units within one agency. RAPID would recommend the latter option in order to facilitate communication and simplify the lines of command.

**The ISSUING of Certificates of Origin:** The SADC Trade Protocol assumes that a department of the national Customs authority would usually carry out this function. RAPID considers that this would be generally the best solution given the complexity of the regime. However, other solutions might be considered. The function might be delegated to Chambers of Commerce & Industry or even contracted to a private company. In any case, the NCA should probably always act under the ultimate supervision of the Customs department, as this would facilitate the resolution of problems that might arise between Member States as a result of importing Customs querying exporters' Certificates of SADC Origin.

**The VERIFICATION of Certificates of Origin:** RAPID is strongly of the opinion that this function should be carried out directly by national Customs departments (as indicated by the SADC Trade Protocol).

---

P.O. Box 602090 ▲ Plot 2914, Ext.10 ▲ Pudulogo Crescent ▲ Gaborone, Botswana ▲ Phone (267) 300 884 ▲ Fax (267) 301 027 ▲ Email [rapid@botsnet.bw](mailto:rapid@botsnet.bw)

Chemomics International Inc ▲ Africa Resources Trust ▲ Business Research and Information Group ▲ Complete Software Solutions Ltd ▲ Consilium Legis (Pty) Ltd  
▲ Crown Agents Consultancy Inc ▲ Dewey Ballantine LLP ▲ ECOFIN (Pvt) Ltd ▲ Economic Resources Ltd ▲ Independent Management Consulting Services  
▲ Macroeconomic & Financial Management Institute of Eastern and Southern Africa ▲ Manyaka Greyling Meiring Ltd ▲ Mercosur Consulting Group Ltd  
▲ New Africa Advisors ▲ Resolve Inc ▲ Sigma One Corporation ▲ TechnoServe ▲ Transportation and Economic Research Associates Inc  
▲ ULG Northumbrian Ltd ▲ Vertex Financial Services Ltd ▲ World Conservation Union ▲ World Wildlife Fund

An Activity Funded by the United States Agency for International Development (Contract No. 690-I-00-00-00149-00)

For reasons discussed above, the certificate issuing procedures proposed by RAPID envisage a relatively relaxed regime for certification at time of shipment – the function to be carried out by the NCA – backed up by much more rigorous pre- and post-shipment requirements on export producers – the function to be carried out by the Certificate Verification Agency (CVA). Only Customs is likely to have the experience needed to enforce the verification regime. In particular, only that body is likely to have the necessary expertise in post-shipment auditing of manufacturers claiming drawback of duty paid on materials used in the production of exports<sup>7</sup>. It is envisaged that the auditing of shipments for verification of Certificates of SADC Origin would be very similar to auditing for drawback.

As already suggested, whatever the administrative system adopted, RAPID is of the opinion that the CVA should supervise the activities of the NCA. This seems particularly necessary if the NCA is not an agency within the national Customs authority or Revenue agency.

## Administration of textile quotas

The national CVA in MMTZ countries should be responsible for administering usage of the quotas placed on exports of textile & clothing products from Malawi, Mozambique, Tanzania and Zambia to SACU destinations under the exception agreed to the normal rules of origin governing such exports in intra-SADC trade as agreed by the First High Level Meeting on Market Access and Rules of Origin held on 27-28 June, 2001, in Maputo, Mozambique<sup>8</sup>. Thus, this agency would be responsible for providing the information on quota usage required on the special Certificates of Origin issued for exports of textiles and clothing<sup>9</sup>.

---

<sup>7</sup> RAPID is aware that in some Member States auditing for duty drawback on material used in the manufacture of goods for export is done by the national Revenue Authority of which Customs forms a part.

<sup>8</sup> The MARO in fact suggested that this should be done by the “competent authority” responsible for registering certified exporters. Under the RAPID proposals the CVA would carry out this function.

<sup>9</sup> The Textile Sub-Committee proposed these Certificates of Origin for use by MMTZ states in certifying exports of textiles and clothing to SACU destinations.



The *rationale* for this suggestion is that the NCA should not certify shipments under the MMTZ Rules of Origin unless it is sure that quota is available. This would be done most efficiently if the CVA were responsible for quota administration and could give appropriate directions to its partner organization for each consignment.

---

<sup>12</sup> See Occasional Paper II issued by the SADC Trade Protocol project team in July, 2001, "Proposed system for the electronic validation of SADC Certificates of Origin".

## Validation of Certificates of Origin

Customs departments in importing countries must be able to rely on the Certificates of Origin submitted to them for cargo-clearing purposes (as presently required by Annex I, Rule 9 of the SADC Trade Protocol) being genuine and not forgeries that have been made to facilitate the transshipment of non-originating goods. Accordingly, RAPID proposes that the heads of Customs should recommend the adoption of a system in which the NCA sends facsimile copies of all Certificates of Origin to the importing country Customs as they are issued.

This procedure was suggested by the SADC Textiles & Clothing Committee in respect of textile and clothing exports from MMTZ sources to SACU destinations and was intended as part of the administration of the quotas placed on such exports. However, it could have a broader application as a means of enabling Customs in importing countries to check hard copy the original Certificates of SADC Origin that must accompany all shipments claiming SADC preference against copies already in their possession.

In the context of a system intended to facilitate the validation of all Certificates of SADC Origin, the use of faxes to communicate the data required would have the disadvantage of being extremely costly. In addition, the poor communications in the remoter regions of many SADC member-states and the danger that commercially confidential information might be compromised, RAPID proposes that the Heads of Customs should recommend to the CMT that they direct Member States to discuss with their regional trading partners the introduction of a system for the electronic validation of certificates of origin.

This proposal arose out of the directive of the CMT at their meeting in Maseru, Lesotho, in April, 2000, that such a system should be further studied. Apart from making broadly detailed technical recommendations in this connection which will be placed before the Working Group at their meeting in Johannesburg in September, 2001<sup>12</sup>, the RAPID project team commissioned CCS Ltd. of Sandton, RSA, to develop the software that will be needed to implement the system. This has already been presented to the Heads of Customs at their meeting in Dar es Salaam in June, 2000, and the Heads of Customs has requested a more detailed presentation at their meeting in Durban in October, 2001.

## ANNEX – THE SADC CERTIFICATE OF ORIGIN FORM

The current version of the SADC Certificate of Origin *pro forma* as prescribed in Appendix II to Annex I of the Amendment Protocol is reproduced overleaf.

---

P.O. Box 602090 ▲ Plot 2914, Ext.10 ▲ Pudulogo Crescent ▲ Gaborone, Botswana ▲ Phone (267) 300 884 ▲ Fax (267) 301 027 ▲ Email [rapid@botsnet.bw](mailto:rapid@botsnet.bw)

Chemronics International Inc ▲ Africa Resources Trust ▲ Business Research and Information Group ▲ Complete Software Solutions Ltd ▲ Consilium Legis (Pty) Ltd  
▲ Crown Agents Consultancy Inc ▲ Dewey Ballantine LLP ▲ ECOFIN (Pvt) Ltd ▲ Economic Resources Ltd ▲ Independent Management Consulting Services  
▲ Macroeconomic & Financial Management Institute of Eastern and Southern Africa ▲ Manyaka Greyling Meiring Ltd ▲ Mercosur Consulting Group Ltd  
▲ New Africa Advisors ▲ Resolve Inc ▲ Sigma One Corporation ▲ TechnoServe ▲ Transportation and Economic Research Associates Inc  
▲ ULG Northumbrian Ltd ▲ Vertex Financial Services Ltd ▲ World Conservation Union ▲ World Wildlife Fund

An Activity Funded by the United States Agency for International Development (Contract No. 690-I-00-00-00-00149-00)

## SADC CERTIFICATE OF ORIGIN

Registration No.....(Optional)  1. Exporter (Name & Office Add.)	3. Country Ref. No.....			
2. Consignee (Name & Office address)	<b>SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)</b>  <b><i>CERTIFICATE OF ORIGIN</i></b>			
4. Particulars of Transport:	5. For official use only			
6. Marks and numbers; number and kind of pack- age, description of goods  <div style="display: flex; justify-content: space-between;"> <span>(i) Mark s &amp; Nos</span> <span>(ii) Descrip- tion of goods</span> </div>	7. Customs Tariff No.	8. Origin Criterion (See <u>next</u> <u>Page</u> ) <i>Overleaf</i>	9. Gross Weight or other quantity	10. Invoice No. & Date (Optional)
11. CUSTOMS ENDORSEMENT Declaration certified  Export Document (2) Form.....No. Customs Office..... Issuing country or Territory..... Date..... Signature.....	12. CERTIFICATION ..... ..... .....  Signature.....  Certificate of Customs or other Designated Authority  STAMP			